

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

C O R A M

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

C.M.A.No.405 of 2009

Santhamoorthy

... Appellant/Petitioner

-Vs-

1. M.Karikalan

2. The National Insurance Company Limited,
No.110289, Ramakrishna Road,
Salem District. ... Respondents/Respondents

Civil Miscellaneous Appeal against the decree and judgment dated 26.05.2008 made in M.C.O.P.No.511 of 2006 on the file of the Motor Accident Claims Tribunal, Additional District Court, Dharmapuri.

For Appellant : Mr.V.Kumaravelan

For 2nd Respondent : Mr.S.Arunkumar

For 1st respondent : No appearance

J U D G M E N T

The claimant is the appellant. He moved the Motor Accidents Claims Tribunal, Additional District Court, Dharmapuri in M.C.O.P.No.511 of 2006 claiming a compensation of Rs.4,00,000/- for the grievous injuries sustained by him in a motor vehicles accident. The Tribunal awarded a sum of Rs.62,350/-, which is under challenge in this appeal seeking enhancement of the compensation.

2. At the outset, both sides did not dispute the accident and they restricted their arguments only with regard to the quantum awarded.

3. Learned counsel appearing for the appellant would submit that the Claims Tribunal has failed to note that the injured is an agriculturalist and due to the fracture sustained in the left forearm, he is unable to do any agricultural works and he suffered disability at 25%. Apart from that, the injured has suffered another grievous injury of fracture in upper jaw as well as teeth and suffered further disability at 25%. But the Claims Tribunal awarded only a meagre sum of Rs.50,000/- towards permanent disability. Further, without considering the fact that the injured is unable to continue his avocation in an effective manner as then he was, though the claimant had claimed a sum of Rs.4,00,000/- as compensation, the Tribunal has awarded only a sum of Rs.62,350/-. Therefore, he would pray for enhancement of the same.

4. Learned Counsel appearing for the 2nd respondent/Insurance Company would submit that the Court below, after taking into consideration the entire medical records and also the documents produced on the side of the claimant, fixed the permanent disability at 50% and awarded a sum of Rs.50,000/- towards the same, which is just and reasonable. Further, he would submit that the Tribunal has awarded just and reasonable compensation under other heads also.

5. Heard both sides and perused the records.

6. On a careful perusal of the judgment passed by the Court below, it is seen that the court below had awarded a total compensation of Rs.62,350/- under the following heads:

1. Permanent Disability 50%	-	Rs.50,000/-
2. Pain and Sufferings	-	Rs.10,000/-
3. Transport	-	Rs. 1,000/-
4. Nutrition	-	Rs. 1,000/-
5. Scan Bill	-	Rs. 350/-

Total		Rs.62,350/-

7. It is seen that the appellant/claimant is an agriculturalist by profession and due to the fracture of left forearm, he is unable to do any agricultural works and thus, he suffered disability at 25%. Apart from that, the claimant has suffered another grievous injury of fracture in upper jaw as well as teeth resulting disfiguration of his face and thus, he

suffered further disability at 25%. Though the Court below has taken into consideration of the same and has fixed the disability at 50%, this Court is of the view that the amount awarded under the said head is meagre. Hence, considering the nature of injuries sustained by the appellant/claimant, I would like to enhance the compensation from Rs.50,000/- as awarded by the Court below to Rs.1,00,000/- by fixing at the rate of Rs.2,000/- per percentage of disability, which would be reasonable.

8. Further, as far as the pain and sufferings is concerned, the amount awarded by the tribunal is enhanced to Rs.25,000/- from Rs.10,000/-. Likewise, the amount awarded under Nutrition is enhanced from Rs.1,000/- to Rs.10,000/- and the amount awarded towards Transport is enhanced to Rs.10,000/- from Rs.1,000/-. Further, as contended by the learned Counsel for the appellant, the appellant has taken treatment even after discharge from the hospital, but no amount was awarded under the head of future medical expenses. Therefore, a sum of Rs.10,000/- is now awarded towards Future Medical Expenses. Further, it is seen that the Court below had awarded a sum of Rs.350/- towards Scan Bill which in my opinion comes under medical expenses.

9. Accordingly, the enhanced award amount is as follows:

1. Permanent Disability 50%	-	Rs.1,00,000/-
2. Pain and Sufferings	-	Rs. 25,000/-
3. Transport	-	Rs. 10,000/-
4. Nutrition	-	Rs. 10,000/-
5. Future Medical Expenses	-	Rs. 10,000/-

Total	-	Rs.1,55,000/-

10. The 2nd respondent/Insurance Company is directed to deposit the entire enhanced compensation amount of Rs.1,55,000/- [Rupees One Lakh and Fifty Five Thousand only] to the credit of MCOP No.511 of 2006 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Dharmapuri, within a period of six weeks from the date of receipt of a copy of this order along with interest at the rate of 7.5% from the date of petition. It is needless to state that on such deposit being made, the appellant/claimant is entitled to withdraw the entire compensation amount along with interest on making proper application before the court below.

11. With the above modification, this Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

tsi

To

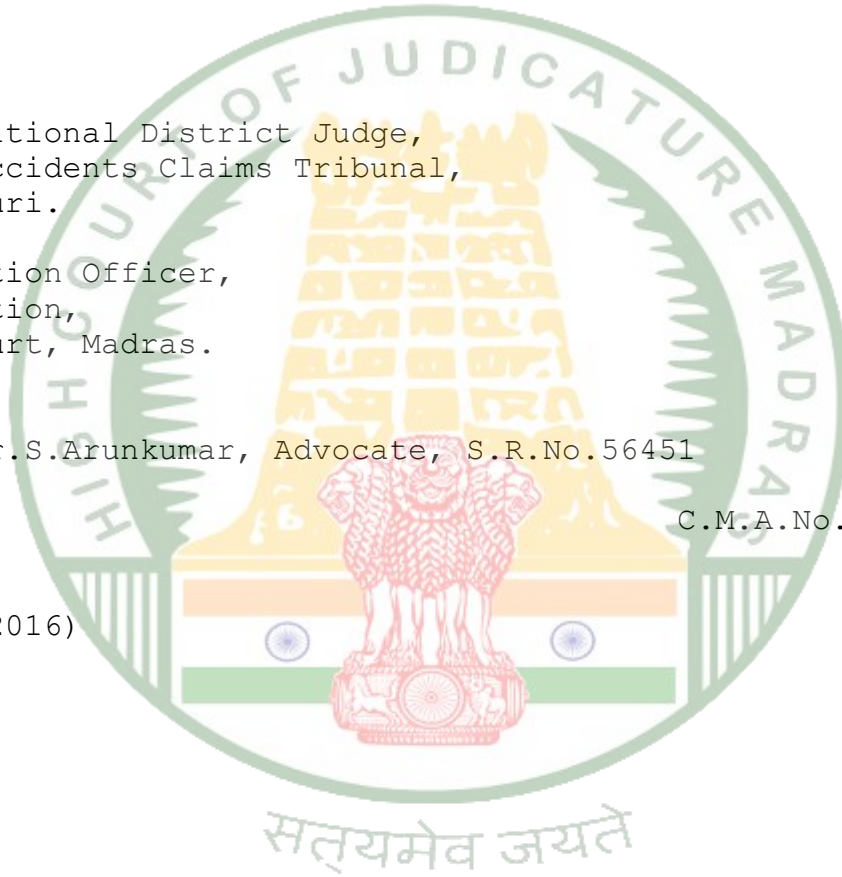
1.The Additional District Judge,
Motor Accidents Claims Tribunal,
Dharmapuri.

2.The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.S.Arunkumar, Advocate, S.R.No.56451

C.M.A.No.405 of 2009

GJ(CO)
CA(04/01/2016)



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